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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,596	08/28/2003	James DeFrancesco	DLT-001DIV3	7930

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
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EXAMINER

CHANG, EDWARD

ART UNIT	PAPER NUMBER
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3692

NOTIFICATION DATE	DELIVERY MODE
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07/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/650,596	Applicant(s) DEFRANCESCO ET AL.	
	Examiner EDWARD CHANG	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/03/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the RCE filed on 23rd of January 2009.
2. Claims 1-6 are currently pending and have been examined.
3. Claims 1-6 have been amended.
4. The decision on the petition under 37 CFR 1.78(a)(3), filed January 23, 2009 was noted.

Response to Arguments

5. Applicant's arguments with respect to claim 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-2 fail to clarify that the executable instructions are machine-executable. For example, they may merely be instructions that are output to a human user to instruct the human user to perform the recited steps, thereby rendering claims 1-2 as data on a medium *per se*, which is non-statutory.

Method claims 3-4 are not tied to a particular machine or apparatus nor do they transform a particular article into a different state or thing, thereby failing the machine-or-transformation test; therefore, claims 3-4 are non-statutory under § 101.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (hereinafter "Campbell"); (US 4,774,664) in view of Dykstra et al. (hereinafter "Dykstra"); (US 5,611,052).

Claim 1:

Campbell shown discloses the following limitations:

- *Executable instructions for receiving a credit application from at least one remote application input location; (See at least Column 9, Line 31+, "...loan payment data received...")*
- *Executable instructions for monitoring the data flow of a communication channel wherein said communication channel accesses a plurality of funding sources; and (See at least column 3, Lines 26+, "...may be displayed...") ; (Also see at least column 24, Lines 26+, "...may be displayed at a loan officer's VDT...", network of terminals are shown on Fig.1)*
- *Executable instructions for automatically and selectively forwarding and received credit application to said plurality of funding sources (See at least Column 2, Line 15+, "...authority of various system users..."); (Also see at least column 24, Lines 26+, "...may be displayed at a loan officer's VDT...", network of terminals are shown on Fig.1)*

Campbell does not teach using the facsimile service when communication channel fails, but Dykstra, however as shown, does:

- *by standardized facsimile service (Fig. 2A, Step 120) should said communication channel fail.* (See at least Fig. 1, Steps, 22, 24, 32) (Fig. 1 shows two different communication channels: **(1)** computer to computer bidirectional data channels (steps 22, and 24), and **(2)** computer to fax data channels (step 32), so it would have been obvious to one of ordinary skill to use the other communication channel if one fails.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Campbell's system as taught by Dykstra to use the facsimile as a backup when needed. This would give an extra assurance to the plurality of funding sources.

Claim 2:

The combination of Campbell/Dykstra discloses the limitations as shown in the rejections above. Furthermore, Campbell as shown, also discloses the following limitations:

- *receiving a funding decision from said plurality of funding sources.*
(See at least column 25, Lines 5+, "...approval/rejection decision...")

Claim 3:

Campbell shown discloses the following limitations:

- *receiving a credit application from at least one remote application input location; (See at least Column 9, Line 31+, "...loan payment data received...")*
- *monitoring the data flow of a communication channel wherein said communication channel accesses a plurality of funding sources; (See at least column 3, Lines 26+, "...may be displayed...") ; (Also see at least column 24, Lines 26+, "...may be displayed at a loan officer's VDT...", network of terminals are shown on Fig.1)*
- *....automatically and selectively forwarding said received credit application to said plurality of funding sources...(See at least Column 2, Line 15+, "...authority of various system users..."); (Also see at least column 24, Lines 26+, "...may be displayed at a loan officer's VDT...", network of terminals are shown on Fig.1)*

Campbell does not teach using the facsimile service when communication channel fails, but Dykstra, however as shown, does:

- *should said communication channel fail, automatically and selectively forwarding said received credit application to said plurality of funding sources by standardized facsimile service (Fig. 2A, Step 120); (See at least Fig. 1, Steps, 22, 24, 32) (Fig. 1 shows two different communication channels: (1) computer to computer bidirectional data channels (steps 22, and 24), and (2) computer to fax data channels (step 32), so it would have*

been obvious to one of ordinary skill to use the other communication channel if one fails.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Campbell's system as taught by Dykstra to use the facsimile as a backup when needed. This would give an extra assurance to the plurality of funding sources.

Claim 4:

The combination of Campbell/Dykstra discloses the limitations as shown in the rejections above. Furthermore, Campbell as shown, also discloses the following limitations:

- *step of receiving a funding decision from said plurality of funding sources. (See at least column 25, Lines 5+, "...approval/rejection decision...")*

Claim 5:

Campbell shown discloses the following limitations:

- *receive a credit application from at least one remote application input location; (See at least Column 9, Line 31+, "...loan payment data received...")*
- *monitor the data flow of said communication channel; and (See at least column 3, Lines 26+, "...may be displayed...") ; (Also see at least column*

24, Lines 26+, "...may be displayed at a loan officer's VDT...", network of terminals are shown on Fig.1)

- *automatically and selectively forwarding and received credit application to said plurality of funding sources* (See at least Column 2, Line 15+, "...authority of various system users..."); (Also see at least column 24, Lines 26+, "...may be displayed at a loan officer's VDT...", network of terminals are shown on Fig.1)

Campbell does not teach using the facsimile service when communication channel fails, but Dykstra, however as shown, does:

- *by standardized facsimile service* (Fig. 2A, Step 120) *should said communication channel fail.* (See at least Fig. 1, Steps, 22, 24, 32) (Fig. 1 shows two different communication channels: (1) computer to computer bidirectional data channels (steps 22, and 24), and (2) computer to fax data channels (step 32), so it would have been obvious to one of ordinary skill to use the other communication channel if one fails.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Campbell's system as taught by Dykstra to use the facsimile as a backup when needed. This would give an extra assurance to the plurality of funding sources.

Claim 6:

The combination of Campbell/Dykstra discloses the limitations as shown in the rejections above. Furthermore, Campbell as shown, also discloses the following limitations:

- *receive a funding decision from said plurality of funding sources.*
(See at least column 25, Lines 5+, "...approval/rejection decision...")

Conclusion

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Edward Chang** whose telephone number is **571.270.3092**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Kambiz Abdi** can be reached at **571.272.6702**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

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June 26, 2009
/Edward Chang/ Examiner, Art Unit 3692
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Primary Examiner, Art Unit 3692